

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 1059

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Hector H. Balderas

AN ACT

RELATING TO LICENSING; REVISING THE PRIVATE INVESTIGATORS AND
POLYGRAPHERS ACT; PROVIDING PENALTIES; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-27A-2 NMSA 1978 (being Laws 1993,
Chapter 212, Section 2, as amended) is amended to read:

"61-27A-2. DEFINITIONS.--As used in the Private
Investigators and Polygraphers Act:

~~[A. "alarm company" means a company that installs
burglar or security alarms in a facility and responds with
guards when the alarm is sounded;~~

~~B.]~~ A. "armored car company" means a company that
knowingly and willingly transports money and other negotiables
for a fee or other remuneration;

underscored material = new
[bracketed material] = delete

1 B. "board" means the private investigators, private
2 patrol operators and polygraph examiners board;

3 C. "bodyguard" means [~~a person~~] an individual who
4 physically performs the mission of personal security [~~of~~] for
5 another individual;

6 D. "branch office" means an office of a private
7 investigation company or private patrol operator company
8 physically located in New Mexico and managed, controlled or
9 directed by [~~a~~] the owner or by a private investigator manager
10 or private patrol operator manager;

11 E. "client" means an individual or legal entity
12 having a contract that authorizes services to be provided in
13 return for financial or other consideration;

14 F. "conviction" means any final adjudication of
15 guilty, whether pursuant to a plea of guilty or nolo contendere
16 or otherwise and whether or not the sentence is deferred or
17 suspended;

18 ~~[G. "department" means the regulation and licensing~~
19 ~~department;]~~

20 G. "individual" means a single human being;

21 H. "legal business entity" means a sole
22 proprietorship, corporation, partnership, limited liability
23 company, limited liability partnership or entity formed for
24 business purposes;

25 ~~[H.]~~ I. "licensee" means [~~a person~~] an individual

underscored material = new
[bracketed material] = delete

1 licensed [~~as a~~

2 ~~(1) private investigator;~~

3 ~~(2) private patrol operator; or~~

4 ~~(3) polygraph examiner;~~

5 ~~I. "manager" means an individual who:~~

6 ~~(1) has the qualifications required of a~~
7 ~~licensee; and~~

8 ~~(2) directs, controls or manages a private~~
9 ~~investigator or private patrol operator business for the owner~~
10 ~~of the business when the owner does not qualify for a license~~
11 ~~under the Private Investigators and Polygraphers Act;~~

12 ~~J. "person" means any individual, firm, company,~~
13 ~~association, organization, partnership or corporation] pursuant~~
14 ~~to the Private Investigators and Polygraphers Act;~~

15 J. "polygraph examiner" means an individual
16 licensed by the board to engage in the practice of polygraphy;

17 K. "polygraphy" means the employment of an
18 instrument designed to graphically record simultaneously the
19 physiological changes in human respiration, cardiovascular
20 activity, galvanic skin resistance or reflex for the purpose of
21 lie detection and includes the reading and interpretation of
22 polygraphic records and results;

23 L. "private investigation company" means a legal
24 business entity that provides private investigation services,
25 the location of which may be within or outside of the state,

.154016.2

underscored material = new
[bracketed material] = delete

1 provided that the private investigation services are performed
2 within New Mexico;

3 ~~[L.]~~ M. "private investigator" means ~~[a person who~~
4 ~~for any consideration whatsoever engages in business or accepts~~
5 ~~employment to conduct an investigation for the purpose of~~
6 ~~obtaining information with reference to]~~ an individual who is
7 licensed to engage in business or who accepts employment to
8 conduct an investigation to obtain information regarding:

9 (1) crime or wrongs done or threatened against
10 the United States or ~~[any]~~ a state or territory of the United
11 States;

12 (2) ~~[the identity, habits, conduct, business,~~
13 ~~occupation, honesty, integrity, credibility, knowledge,~~
14 ~~trustworthiness, efficiency, loyalty, activity, movement,~~
15 ~~whereabouts, affiliation, association, transactions, acts,~~
16 ~~reputation or character of]~~ any person;

17 (3) the location, disposition or recovery of
18 lost or stolen property;

19 (4) the cause or responsibility for fires,
20 losses, accidents or damage or injury to persons or properties;
21 or

22 (5) the securing of evidence to be used before
23 any court, board ~~[officer]~~ or investigating committee or for a
24 law enforcement officer;

25 ~~[M. "private investigator employee" means an~~

.154016.2

underscoring material = new
[bracketed material] = delete

1 ~~individual who is working under the license and bond of a~~
2 ~~private investigator;~~]

3 N. "private investigator employee" means an
4 individual who is registered to work under the direct control
5 and supervision of a licensed private investigator;

6 O. "private investigator manager" means an
7 individual who:

8 (1) is licensed as a private investigator and
9 is issued a license as a private investigator manager by the
10 board;

11 (2) directs, controls or manages a private
12 investigation company for the owner of the company; and

13 (3) is assigned to and operates from the
14 private investigation company or branch office location of
15 which he is licensed to manage;

16 ~~[N.]~~ P. "private patrol operator" [or "operator of
17 a private patrol service"] means [a person who for any
18 consideration whatsoever agrees] an individual who is licensed
19 to:

20 (1) [furnish or furnishes a] conduct uniformed
21 or nonuniformed services that include watchman, security guard,
22 patrolman or other person to protect property and any persons
23 on or in the property;

24 (2) prevent the theft, unlawful taking, loss,
25 embezzlement, misappropriation or concealment of any goods,

.154016.2

underscored material = new
[bracketed material] = delete

1 wares, merchandise, money, bonds, stocks, notes, documents,
2 papers or property of any kind; or

3 (3) perform the service of a security guard,
4 armored car company or security dog ~~[company]~~ trainer; a
5 "private patrol operator" may not make ~~[any investigation]~~
6 investigations except those that are incidental to the theft,
7 loss, embezzlement, misappropriation or concealment of ~~[any]~~
8 property or ~~[any]~~ other item enumerated in the Private
9 Investigators and Polygraphers Act that ~~[he]~~ the operator has
10 been hired or engaged to protect, guard or watch;

11 ~~[0. "security dog company" means a company that
12 uses trained dogs with handlers to perform a security mission
13 at a location; and]~~

14 Q. "private patrol operator company" means a legal
15 business entity that provides private patrol operator services,
16 including an independent or proprietary commercial organization
17 whose activities include employment of licensed private patrol
18 operators or security guards, the location of which may be
19 within or outside of the state, provided that the private
20 patrol operator services are performed within New Mexico;

21 R. "private patrol operator manager" means an
22 individual who:

23 (1) is licensed as a private patrol operator
24 or registered as a level three security guard and is issued a
25 license as a private patrol operator manager by the board;

.154016.2

underscored material = new
[bracketed material] = delete

1 (2) directs, controls or manages a private
2 patrol operator company for the owner of the company; and

3 (3) is assigned to and operates from the
4 private patrol operator company or branch office location that
5 he is licensed to manage;

6 S. "proprietary commercial organization" means an
7 organization or department of an organization that provides
8 full- or part-time security guard services solely for itself;

9 T. "registrant" means an individual registered as a
10 private investigator employee or a security guard at any level;

11 U. "security dog trainer" means an individual who
12 trains dogs to detect illegal substances;

13 [~~P.~~] V. "security guard" means [~~any~~] an individual
14 who is [~~an employee of a private patrol operator and employed~~
15 registered to engage in uniformed or nonuniformed services
16 under the direct control and supervision of a licensed private
17 patrol operator or a manager who is a private patrol operator
18 to perform [~~such~~] security missions such as watchman, fixed
19 post guard, dog handler, patrolman or other person to protect
20 property or prevent thefts. "Security guard" includes loss
21 prevention officers. The three levels of registration for
22 security guard positions are as follows:

23 (1) level one - entry level, unarmed;

24 (2) level two - intermediate, armed but not
25 with a firearm; and

.154016.2

underscored material = new
[bracketed material] = delete

1 (3) level three - advanced level position, may
2 be armed with a firearm; and

3 W. "special event" means a parade or other short
4 duration event."

5 Section 2. Section 61-27A-3 NMSA 1978 (being Laws 1993,
6 Chapter 212, Section 3) is amended to read:

7 "61-27A-3. LICENSE REQUIRED.--It is unlawful for [~~any~~
8 ~~person~~] an individual to:

9 A. act as a private investigator, [~~a~~] private
10 patrol operator, security guard, private investigator employee,
11 private investigator manager or [~~a~~] private patrol operator
12 manager or to represent himself to be a licensee or a [~~manager~~]
13 registrant unless [~~he~~] the individual is licensed [~~under~~] or
14 registered pursuant to the Private Investigators and
15 Polygraphers Act;

16 B. render physical protection for remuneration as a
17 bodyguard unless [~~he~~] the individual is licensed as a private
18 investigator or a private patrol operator;

19 C. continue to act as a private investigator,
20 private patrol operator, security guard, private investigator
21 employee, private investigator manager or private patrol
22 operator manager if [~~his~~] the individual's license or
23 registration issued pursuant to [~~that~~] the Private
24 Investigators and Polygraphers Act has expired;

25 D. falsely represent that [~~he~~] the individual is

.154016.2

underscoring material = new
[bracketed material] = delete

1 employed by a licensee; or

2 E. practice polygraphy for any remuneration without
3 a license issued by the ~~[department]~~ board in accordance with
4 the Private Investigators and Polygraphers Act."

5 Section 3. Section 61-27A-4 NMSA 1978 (being Laws 1993,
6 Chapter 212, Section 4) is amended to read:

7 "61-27A-4. PERSONS EXEMPTED.--The Private Investigators
8 and Polygraphers Act does not apply to:

9 ~~[A. attorneys;~~

10 ~~B. a person employed exclusively and regularly by
11 one employer in connection with the affairs of such employer
12 only where there exists an employer-employee relationship;]~~

13 A. an attorney licensed in New Mexico conducting
14 private investigations while engaged in the practice of law;

15 ~~[G.]~~ B. an officer or employee of the United States
16 or this state or a political subdivision of the United States
17 or this state while that officer or employee is engaged in the
18 performance of his official duties;

19 ~~[D.]~~ C. a person engaged exclusively in the
20 business of obtaining and furnishing information concerning the
21 financial rating of persons;

22 ~~[E.]~~ D. a charitable philanthropic society or
23 association duly incorporated under the laws of this state that
24 is organized and maintained for the public good and not for
25 private profit;

.154016.2

underscoring material = new
[bracketed material] = delete

1 ~~[F.]~~ E. a licensed collection agency or an employee
2 ~~[thereof]~~ of the agency while acting within the scope of ~~[his]~~
3 employment while making an investigation incidental to the
4 business of the agency, including an investigation of the
5 location of a debtor or his property;

6 ~~[G.]~~ F. admitted insurers, adjusters, agents and
7 insurance brokers licensed by the state performing duties in
8 connection with insurance transactions by them; or

9 ~~[H.—any]~~ G. an institution subject to the
10 jurisdiction of the director of the financial institutions
11 division of the regulation and licensing department or the
12 comptroller of currency of the United States."

13 Section 4. Section 61-27A-5 NMSA 1978 (being Laws 1993,
14 Chapter 212, Section 5) is amended to read:

15 "61-27A-5. BOARD CREATED--ADMINISTRATION OF ACT--RULES
16 ~~[AND REGULATIONS]~~.--

17 A. The "private investigators, private patrol
18 operators and polygraph examiners board" is created.

19 ~~[A.]~~ B. The ~~[department]~~ board shall enforce and
20 administer the provisions of the Private Investigators and
21 Polygraphers Act.

22 ~~[B. The department shall appoint an advisory board~~
23 ~~to assist in the conduct of the examination process for~~
24 ~~licensure and in any other manner to aid in the administration~~
25 ~~of that act. The advisory board shall consist of two licensed~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~private investigators, one licensed private patrol operator,~~
2 ~~one licensed polygraph examiner and one member of the public.~~
3 ~~Members of the board shall be reimbursed as provided in the Per~~
4 ~~Diem and Mileage Act.~~

5 ~~C. The department shall keep a record of each~~
6 ~~licensee and each employee of a private investigator or private~~
7 ~~patrol operator.]~~

8 C. The board is administratively attached to the
9 regulation and licensing department.

10 D. The board shall consist of five members
11 appointed by the governor who shall serve five-year terms;
12 provided that at the time of initial appointment, the governor
13 shall appoint two members to abbreviated terms to allow for
14 staggering of terms of subsequent appointees. The governor
15 shall fill vacancies by appointment to complete the unexpired
16 term created by the vacancy. The governor shall appoint the
17 following members to the board:

- 18 (1) two licensed private investigators;
19 (2) one licensed private patrol operator;
20 (3) one licensed polygraph examiner; and
21 (4) one member of the public.

22 E. The public member or the public member's spouse
23 shall not have been licensed pursuant to the Private
24 Investigators and Polygraphers Act, or similar prior
25 legislation, or have a financial interest, direct or indirect,

.154016.2

underscored material = new
[bracketed material] = delete

1 in a private investigation company, private patrol operator
2 company, polygraph examiner business or a related business.

3 F. Members of the board shall be reimbursed
4 pursuant to the Per Diem and Mileage Act and shall receive no
5 other compensation, perquisite or allowance for each day spent
6 in the discharge of their duties.

7 G. The board shall keep a record of each individual
8 licensee and registrant, including the private investigation
9 company or private patrol operator company where each
10 individual licensee or registrant is employed. The board shall
11 keep a record of each private investigation company or private
12 patrol operator company licensed by the board, including a
13 record of the owners, officers and directors of each company.

14 ~~[D.]~~ H. The ~~[department]~~ board shall adopt and
15 enforce rules ~~[and regulations]~~ necessary to carry out the
16 provisions of the Private Investigators and Polygraphers Act,
17 including ~~[requirements for continuing education]~~ establishing
18 professional ethical standards.

19 I. The board shall adopt rules regarding the
20 following:

21 (1) licensing and registering private
22 investigators, private investigator employees, private
23 investigator managers, private investigation companies, private
24 patrol operators, security guards, private patrol operator
25 managers, private patrol operator companies and polygraph

.154016.2

underscored material = new
[bracketed material] = delete

1 examiners;

2 (2) establishing minimum training and
3 educational standards for licensure and registration;

4 (3) continuing education requirements;

5 (4) establishing and operating a branch
6 office;

7 (5) creating a policy on reciprocity with
8 other states and territories of the United States;

9 (6) providing permits for security guards for
10 special events; and

11 (7) conducting criminal history background
12 checks."

13 Section 5. Section 61-27A-6 NMSA 1978 (being Laws 1993,
14 Chapter 212, Section 6, as amended) is amended to read:

15 "61-27A-6. PRIVATE INVESTIGATOR--REQUIREMENTS FOR
16 LICENSURE.--

17 A. The department shall issue a license for a
18 private investigator to [~~a person~~] an individual who files a
19 completed application accompanied by the required fees and who
20 submits satisfactory evidence that the applicant has met all
21 requirements set forth by the board in rule, including that the
22 applicant:

23 (1) is at least [~~eighteen~~] twenty-one years of
24 age;

25 (2) is of good moral character;

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~[(3) has passed a written examination as~~
2 ~~prescribed by the department;~~

3 ~~(4) has at least three years' experience~~
4 ~~within the last five years in investigative work or a level of~~
5 ~~experience determined to be sufficient by the department; and]~~

6 (3) has successfully passed an examination as
7 required by board rule;

8 ~~[(5)]~~ (4) has not been convicted of a felony
9 offense or [a] other criminal offense [~~involving moral~~
10 ~~turpitude or the illegal use or possession of a deadly weapon.~~

11 ~~B. The department shall issue a license for a~~
12 ~~private investigator manager to a person who files a completed~~
13 ~~application accompanied by the required fees and who submits~~
14 ~~satisfactory evidence that the applicant:~~

15 ~~(1) is at least eighteen years of age;~~

16 ~~(2) has passed a written examination as~~
17 ~~prescribed by the department;~~

18 ~~(3) has at least three years' experience~~
19 ~~within the last five years in investigative work or a level of~~
20 ~~experience determined to be sufficient by the department;~~

21 ~~(4) is of good moral character; and~~

22 ~~(5) has not been convicted of a felony offense~~
23 ~~or a criminal offense involving moral turpitude or the illegal~~
24 ~~use or possession of a deadly weapon.~~

25 ~~G. The department shall issue a license for a~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~private patrol operator to a person who files a completed~~
2 ~~application accompanied by the required fees and who submits~~
3 ~~satisfactory evidence that the applicant:~~

4 ~~(1) is at least eighteen years of age;~~

5 ~~(2) is of good moral character;~~

6 ~~(3) has passed a written examination as~~
7 ~~prescribed by the department;~~

8 ~~(4) has at least three years' experience~~
9 ~~within the last five years in security work or a level of~~
10 ~~experience determined to be sufficient by the department; and~~

11 ~~(5) has not been convicted of a felony offense~~
12 ~~or a criminal offense involving moral turpitude or the illegal~~
13 ~~use or possession of a deadly weapon.~~

14 ~~D. The department shall issue a license for a~~
15 ~~private patrol operator manager to a person who files a~~
16 ~~completed application accompanied by the required fees and who~~
17 ~~submits satisfactory evidence that the applicant:~~

18 ~~(1) is at least eighteen years of age;~~

19 ~~(2) has passed a written examination as~~
20 ~~prescribed by the department;~~

21 ~~(3) has at least three years' experience~~
22 ~~within the last five years in security work or a level of~~
23 ~~experience determined to be sufficient by the department;~~

24 ~~(4) is of good moral character; and~~

25 ~~(5) has not been convicted of a felony offense~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~or a criminal offense involving moral turpitude or the illegal~~
2 ~~use or possession of a deadly weapon.~~

3 ~~E. A manager's license is required when the owner~~
4 ~~of a private investigator or private patrol operator business~~
5 ~~does not qualify for a license under the Private Investigators~~
6 ~~and Polygraphers Act.~~

7 ~~F. The department shall issue a security guard~~
8 ~~pocket card to a person who files a completed application~~
9 ~~accompanied by the required fees and who submits satisfactory~~
10 ~~evidence that the applicant:~~

11 ~~(1) is at least eighteen years of age; and~~

12 ~~(2) is of good moral character.~~

13 ~~G. The department shall issue a license for~~
14 ~~polygrapher to a person who files a completed application~~
15 ~~accompanied by the required fees and who submits satisfactory~~
16 ~~evidence that the applicant:~~

17 ~~(1) is at least eighteen years of age;~~

18 ~~(2) possesses a high school diploma or its~~
19 ~~equivalent;~~

20 ~~(3) has not been convicted of a felony or~~
21 ~~misdemeanor involving moral turpitude; and~~

22 ~~(4) has graduated from a polygraph examiners~~
23 ~~course approved by the department and:~~

24 ~~(a) has completed a probationary~~
25 ~~operational competency period and passed an examination of~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~ability to practice polygraphy; or~~

2 ~~(b) has submitted proof of holding, for~~
3 ~~a minimum of two years immediately prior to the date of~~
4 ~~application, a current license to practice polygraphy in~~
5 ~~another jurisdiction whose standards equal or surpass those of~~
6 ~~New Mexico] and has not been found to have violated~~
7 professional ethical standards; and

8 (5) has at least three years' experience that
9 has been acquired within the five years preceding the filing of
10 the application with the board, consisting of not less than six
11 thousand hours of actual work performed in:

12 (a) investigation for the purpose of
13 obtaining information with reference to a crime or wrongs done
14 or threatened against the United States;

15 (b) investigation of persons;

16 (c) the location, disposition or
17 recovery of lost or stolen property;

18 (d) the cause or responsibility for
19 fire, losses, accidents or damage or injury to persons or
20 property; or

21 (e) securing evidence to be used before
22 a court, board or investigating committee or for a law
23 enforcement officer.

24 B. Years and hours of qualifying experience and the
25 precise nature of that experience shall be substantiated by

.154016.2

1 written certification from employers and shall be subject to
2 independent verification by the board as it determines is
3 warranted. The burden of proving the necessary experience is
4 on the applicant."

5 Section 6. A new section of the Private Investigators and
6 Polygraphers Act, Section 61-27A-6.1 NMSA 1978, is enacted to
7 read:

8 "61-27A-6.1. [NEW MATERIAL] PRIVATE INVESTIGATION
9 COMPANY--REQUIREMENTS FOR LICENSURE.--The board shall issue a
10 license for a private investigation company to a person who
11 files a completed application accompanied by the required fees
12 and who submits satisfactory evidence that the applicant:

13 A. if an individual, is of good moral character, or
14 if the applicant is a legal business entity, the owners,
15 officers or directors are of good moral character;

16 B. if an individual, has not been convicted of a
17 felony offense or other criminal offense and has not been found
18 to have violated professional ethical standards, or if a legal
19 business entity, the owners, officers or directors have not
20 been convicted of felony offenses or other criminal offenses
21 and have not been found to have violated professional ethical
22 standards;

23 C. maintains general liability insurance as
24 specified in the Private Investigators and Polygraphers Act;

25 D. has an owner or a licensed private investigator

.154016.2

underscored material = new
[bracketed material] = delete

1 manager who is licensed as a private investigator and who
2 manages the daily operations of the private investigation
3 company;

4 E. maintains a physical location in New Mexico
5 where records are maintained and made available for inspection
6 by the board or one of its designees;

7 F. maintains a New Mexico registered agent, if the
8 private investigation company is located outside of New Mexico;
9 and

10 G. meets all other requirements set forth in the
11 rules of the board."

12 Section 7. A new section of the Private Investigators and
13 Polygraphers Act, Section 61-27A-6.2 NMSA 1978, is enacted to
14 read:

15 "61-27A-6.2. [NEW MATERIAL] PRIVATE INVESTIGATOR
16 MANAGER--REQUIREMENTS FOR LICENSURE--NOTIFICATION OF BOARD IN
17 EVENT OF TERMINATION OF EMPLOYMENT.--

18 A. The board shall issue a license for a private
19 investigator manager to an individual who files a completed
20 application accompanied by the required fees and who submits
21 satisfactory evidence that the applicant:

22 (1) possesses a current license in good
23 standing as a private investigator;

24 (2) has successfully passed an examination
25 required by board rule;

.154016.2

underscoring material = new
[bracketed material] = delete

1 (3) is employed by the private investigation
2 company that he will be managing and remains employed by the
3 private investigation company under which authority the license
4 of the private investigator manager is issued. Termination of
5 employment with the private investigation company terminates
6 the license of the private investigator manager; and

7 (4) meets other requirements set forth in
8 rules of the board.

9 B. A private investigator manager who ceases to be
10 employed by the private investigation company he is licensed to
11 manage shall surrender his license to the owner, officer or
12 director who will temporarily take over management of the
13 company before the manager leaves the company. The owner,
14 officer or director shall notify and submit the license to the
15 board within thirty days of the termination of employment of
16 the private investigator manager. If the private investigation
17 company fails to notify the board within thirty days of the
18 termination of the private investigator manager's termination
19 from employment, the license of the private investigation
20 company shall be subject to suspension or revocation and may
21 only be reinstated upon the filing of an application for
22 reinstatement and payment of the reinstatement fee.

23 C. The owner, officer or director of a private
24 investigation company shall submit an application to the board
25 naming a new private investigator manager within thirty days

.154016.2

underscoring material = new
[bracketed material] = delete

1 from the date that a manager ceases to be employed by the
2 private investigation company. The newly named private
3 investigator manager shall not start performing the duties of a
4 manager until and unless the board grants the individual a
5 license as a private investigation manager."

6 Section 8. A new section of the Private Investigators and
7 Polygraphers Act, Section 61-27A-6.3 NMSA 1978, is enacted to
8 read:

9 "61-27A-6.3. [NEW MATERIAL] PRIVATE PATROL OPERATOR--
10 REQUIREMENTS FOR LICENSURE.--The board shall issue a license
11 for a private patrol operator to an individual who files a
12 completed application accompanied by the required fees and who
13 submits satisfactory evidence that the applicant:

- 14 A. is at least twenty-one years of age;
- 15 B. is of good moral character;
- 16 C. has successfully passed an examination as
17 required by board rule;
- 18 D. has not been convicted of a felony offense or
19 other criminal offense or has not been found to have violated
20 professional ethical standards;
- 21 E. has at least three years' experience of not less
22 than six thousand hours of actual work performed as a security
23 guard, watchman or patrolman or the equivalent, one year of
24 which shall have been in a supervisory capacity. The
25 experience shall have been acquired within five years preceding

.154016.2

underscored material = new
[bracketed material] = delete

1 the filing of an application with the board. Years and hours
2 of qualifying experience and the precise nature of that
3 experience shall be substantiated by written certification from
4 employers and shall be subject to independent verification by
5 the board as it determines is warranted. The burden of proving
6 the necessary experience is on the applicant;

7 F. is firearm certified, if the practice will
8 require being armed with a firearm; and

9 G. meets other requirements set forth in rules of
10 the board."

11 Section 9. A new section of the Private Investigators and
12 Polygraphers Act, Section 61-27A-6.4 NMSA 1978, is enacted to
13 read:

14 "61-27A-6.4. [NEW MATERIAL] PRIVATE PATROL OPERATOR
15 COMPANY--REQUIREMENTS FOR LICENSURE.--The board shall issue a
16 license for a private patrol operator company to a person who
17 files a completed application accompanied by the required fees
18 and who submits satisfactory evidence that the applicant:

19 A. if an individual, is of good moral character, or
20 if the applicant is a legal business entity, the owners,
21 officers or directors are of good moral character;

22 B. if an individual, has not been convicted of a
23 felony offense or other criminal offense or has not been found
24 to have violated professional ethical standards, or if the
25 applicant is a legal business entity, the owners, officers or

.154016.2

underscored material = new
[bracketed material] = delete

1 directors have not been convicted of a felony or other criminal
2 offense and have not been found to have violated professional
3 ethical standards;

4 C. maintains general liability insurance as
5 specified in the Private Investigators and Polygraphers Act;

6 D. has an owner or a licensed private patrol
7 operator manager who is a private patrol operator or a level
8 three security guard who manages the daily operations of the
9 private patrol operator company;

10 E. maintains a physical location in New Mexico
11 where records are maintained and made available for inspection
12 by the board or one of its designees;

13 F. maintains a New Mexico registered agent, if the
14 private patrol operator company is located outside of New
15 Mexico; and

16 G. meets all other requirements set forth in the
17 rules of the board."

18 Section 10. A new section of the Private Investigators
19 and Polygraphers Act, Section 61-27A-6.5 NMSA 1978, is enacted
20 to read:

21 "61-27A-6.5. [NEW MATERIAL] PRIVATE PATROL OPERATOR
22 MANAGER--REQUIREMENTS FOR LICENSURE--NOTIFICATION OF BOARD IN
23 EVENT OF TERMINATION OF EMPLOYMENT.--

24 A. The board shall issue a license for a private
25 patrol operator manager to an individual who files a completed

.154016.2

1 application accompanied by the required fees and who submits
2 satisfactory evidence that the applicant:

3 (1) possesses a current license in good
4 standing as a private patrol operator or a registration as a
5 level three security guard;

6 (2) has successfully passed an examination as
7 required by board rule;

8 (3) is employed by the private patrol operator
9 company that the applicant will be managing and remains
10 employed by the private patrol operator company under which
11 authority the license of the private patrol operator manager is
12 issued. Termination of employment with the private patrol
13 operator company terminates the license of the private patrol
14 operator manager; and

15 (4) meets other requirements set forth in the
16 rules of the board.

17 B. A private patrol operator manager who ceases to
18 be employed by the private patrol operator company he is
19 licensed to manage shall surrender his license to the owner,
20 officer or director who will temporarily take over management
21 of the company before the manager leaves the company. The
22 owner, officer or director shall notify and submit the license
23 to the board within thirty days of the termination of
24 employment of the private patrol operator manager. If the
25 private patrol operator company fails to notify the board

.154016.2

underscoring material = new
[bracketed material] = delete

1 within thirty days of the private patrol operator manager's
2 termination from employment, the license of the private patrol
3 operator company shall be subject to suspension or revocation
4 and may only be reinstated upon the filing of an application
5 for reinstatement and payment of the reinstatement fee.

6 C. The owner, officer or director of a private
7 patrol operator company shall submit an application to the
8 board naming a new private patrol operator manager within
9 thirty days from the date that a manager ceases to be employed
10 by the private patrol operator company. The newly named
11 private patrol operator manager shall not start performing the
12 duties of a manager until and unless the board grants the
13 individual a license as a private patrol operator manager."

14 Section 11. A new section of the Private Investigators
15 and Polygraphers Act, Section 61-27A-6.6 NMSA 1978, is enacted
16 to read:

17 "61-27A-6.6. [NEW MATERIAL] POLYGRAPH EXAMINER--
18 REQUIREMENTS FOR LICENSURE.--The board shall issue a license as
19 a polygraph examiner to an individual who files a completed
20 application accompanied by the required fees and who submits
21 satisfactory evidence that the applicant:

- 22 A. is at least eighteen years of age;
- 23 B. is of good moral character;
- 24 C. possesses a high school diploma or its
25 equivalent;

.154016.2

underscored material = new
[bracketed material] = delete

1 D. has not been convicted of a felony or other
2 criminal offense and has not been found to have violated
3 professional ethical standards;

4 E. has graduated from an accredited polygraph
5 examiners course approved by the board;

6 F. has:

7 (1) completed a probationary operational
8 competency period and passed an examination of ability to
9 practice polygraphy; or

10 (2) submitted proof of holding, for a minimum
11 of two years immediately preceding the date of application, a
12 current license to practice polygraphy in another jurisdiction
13 whose standards are equal to or greater than those in New
14 Mexico; and

15 G. meets other requirements set forth in the rules
16 of the board."

17 Section 12. A new section of the Private Investigators
18 and Polygraphers Act, Section 61-27A-6.7 NMSA 1978, is enacted
19 to read:

20 "61-27A-6.7. [NEW MATERIAL] PRIVATE INVESTIGATOR
21 EMPLOYEE--REQUIREMENTS FOR REGISTRATION.--

22 A. On or after July 1, 2005, every individual who
23 seeks employment or is currently employed as a private
24 investigator employee shall file an application for
25 registration with the board.

.154016.2

underscored material = new
[bracketed material] = delete

1 B. The board shall issue a registration for a
2 private investigator employee to an individual who files a
3 completed application accompanied by the required fees and who
4 submits satisfactory evidence that the applicant:

5 (1) is at least eighteen years of age;

6 (2) is of good moral character;

7 (3) possesses a high school diploma or its
8 equivalent;

9 (4) has successfully completed an examination
10 as required by board rule;

11 (5) has not been convicted of a felony or
12 other criminal offense and has not been found to have violated
13 professional ethical standards;

14 (6) shall be employed by a private
15 investigation company, under the direct control and supervision
16 of a licensed private investigator; and

17 (7) meets other requirements as set forth in
18 the rules of the board.

19 C. If the employment of a private investigator
20 employee with a private investigation company terminates for
21 any reason, the registration of the individual as a private
22 investigator employee immediately terminates. The private
23 investigator employee shall turn over his registration to the
24 private investigation company upon termination.

25 D. A private investigation company has thirty days

.154016.2

underscored material = new
[bracketed material] = delete

1 in which to notify the board of the employment termination of a
2 private investigator employee and to return the private
3 investigator employee's registration to the board."

4 Section 13. A new section of the Private Investigators
5 and Polygraphers Act, Section 61-27A-6.8 NMSA 1978, is enacted
6 to read:

7 "61-27A-6.8. [NEW MATERIAL] SECURITY GUARD--LEVEL ONE--
8 REQUIREMENTS FOR REGISTRATION.--

9 A. On or after July 1, 2005, every individual
10 seeking employment or employed as a level one security guard
11 shall file an application for registration with the board.

12 B. The board shall issue a registration for a level
13 one security guard to an individual who files a completed
14 application accompanied by the required fees and who submits
15 satisfactory evidence that the applicant:

- 16 (1) is at least eighteen years of age;
17 (2) is of good moral character;
18 (3) possesses a high school diploma or its
19 equivalent;
20 (4) has successfully completed an examination
21 as required by board rule;
22 (5) has not been convicted of a felony or
23 other criminal offense and has not been found to have violated
24 professional ethical standards;
25 (6) has completed a curriculum approved in

.154016.2

underscored material = new
[bracketed material] = delete

1 board rule consisting of at least forty hours of security
2 officer training provided by an educational institution
3 licensed by the commission on higher education pursuant to the
4 Post-Secondary Educational Institution Act or a public
5 institution;

6 (7) will be employed by a private patrol
7 operator company under the direct control and supervision of a
8 licensed private patrol operator; and

9 (8) meets other requirements as set forth in
10 board rules.

11 C. A private patrol operator company has thirty
12 days in which to notify the board of the employment termination
13 of a level one security guard."

14 Section 14. A new section of the Private Investigators
15 and Polygraphers Act, Section 61-27A-6.9 NMSA 1978, is enacted
16 to read:

17 "61-27A-6.9. [NEW MATERIAL] SECURITY GUARD--LEVEL TWO--
18 REQUIREMENTS FOR REGISTRATION.--

19 A. On or after July 1, 2005, every individual
20 seeking employment or employed as a level two security guard
21 shall file an application for registration with the board.

22 B. The board shall issue a registration for a level
23 two security guard to an individual who files a completed
24 application accompanied by the required fees and who submits
25 satisfactory evidence that the applicant:

.154016.2

- 1 (1) is at least eighteen years of age;
- 2 (2) is of good moral character;
- 3 (3) possesses a high school diploma or its
- 4 equivalent;
- 5 (4) maintains a current registration in good
- 6 standing as a level one security guard;
- 7 (5) has successfully completed an examination
- 8 as required by board rule;
- 9 (6) has not been convicted of a felony or
- 10 other criminal offense and has not been found to have violated
- 11 professional ethical standards;
- 12 (7) has completed a curriculum approved in
- 13 board rule consisting of at least forty hours of training above
- 14 that required for a level one security guard registration,
- 15 including handcuffing, patrol tactics, baton and use of
- 16 paralyzing spray provided by an educational institution
- 17 licensed by the commission on higher education pursuant to the
- 18 Post-Secondary Educational Institution Act or a public
- 19 institution;
- 20 (8) is employed by a private patrol operator
- 21 company under the direct control and supervision of a licensed
- 22 private patrol operator; and
- 23 (9) meets other requirements as set forth in
- 24 board rules.

25 C. A private patrol operator company has thirty

underscored material = new
[bracketed material] = delete

1 days in which to notify the board of the employment termination
2 of a level two security guard."

3 Section 15. A new section of the Private Investigators
4 and Polygraphers Act, Section 61-27A-6.10 NMSA 1978, is enacted
5 to read:

6 "61-27A-6.10. [NEW MATERIAL] SECURITY GUARD--LEVEL
7 THREE--REQUIREMENTS FOR REGISTRATION.--

8 A. On or after July 1, 2005, every individual
9 seeking employment or employed as a level three security guard
10 shall file an application for registration with the board.

11 B. The board shall issue a registration for a level
12 three security guard to an individual who files a completed
13 application accompanied by the required fees and who submits
14 satisfactory evidence that the applicant:

- 15 (1) is at least twenty-one years of age;
16 (2) is of good moral character;
17 (3) possesses a high school diploma or its
18 equivalent;
19 (4) maintains a current registration in good
20 standing as a level two security guard;
21 (5) has successfully completed an examination
22 as required by board rule;
23 (6) has not been convicted of a felony or
24 other criminal offense and has not been found to have violated
25 professional ethical standards;

.154016.2

underscored material = new
[bracketed material] = delete

1 (7) has completed a curriculum approved in
2 board rule consisting of at least forty hours of training above
3 that required for a level two security guard registration
4 provided by an educational institution licensed by the
5 commission on higher education pursuant to the Post-Secondary
6 Educational Institution Act or a public institution;

7 (8) is firearm certified;

8 (9) is employed by a private patrol operator
9 company under the direct control and supervision of a licensed
10 private patrol operator; and

11 (10) meets other requirements as set forth in
12 board rules.

13 C. A private patrol operator company has thirty
14 days in which to notify the board of the employment termination
15 of a level three security guard."

16 Section 16. A new section of the Private Investigators
17 and Polygraphers Act, Section 61-27A-6.11 NMSA 1978, is enacted
18 to read:

19 "61-27A-6.11. [NEW MATERIAL] SPECIAL EVENT PERMIT--
20 PROCEDURE--QUALIFICATIONS.--

21 A. The board may issue a temporary special event
22 permit to a private patrol operator company for each security
23 guard that the company intends to employ for a special event.

24 B. To be issued a special event permit, a private
25 patrol operator company shall provide the board with a

.154016.2

1 description of the special event, its location and the dates on
2 which the temporary security guards will be employed to provide
3 services at the special event. The special event permit shall
4 bear the name of the private patrol operator company and
5 contact information, the name of the security guard, the name
6 of the special event for which it is issued, the dates of the
7 special event and other pertinent information required by the
8 board.

9 C. A special event permit shall be issued only to
10 an individual who qualifies for any level security guard
11 registration and who:

12 (1) is not a resident of New Mexico;

13 (2) does not hold a registration as a security
14 guard in New Mexico; and

15 (3) meets other requirements set forth in
16 board rules.

17 D. The private patrol operator company seeking a
18 special event permit shall provide documentation required by
19 the board that verifies the qualifications of the temporary
20 security guards who are to be issued the special event
21 permits."

22 Section 17. Section 61-27A-7 NMSA 1978 (being Laws 1993,
23 Chapter 212, Section 7) is amended to read:

24 "61-27A-7. [LICENSE] FEES.--~~[Each applicant for licensure~~
25 ~~shall pay a fee set by the department not to exceed the~~

.154016.2

underscored material = new
[bracketed material] = delete

1 following:

2 ~~A. private investigator, initial license or~~
3 ~~renewal, two hundred dollars (\$200);~~

4 ~~B. private investigator manager, initial license or~~
5 ~~renewal, one hundred dollars (\$100);~~

6 ~~C. private investigator employee, initial~~
7 ~~registration or renewal, fifty dollars (\$50.00);~~

8 ~~D. private patrol operator, initial license or~~
9 ~~renewal, two hundred dollars (\$200);~~

10 ~~E. private patrol operator manager, initial license~~
11 ~~or renewal, one hundred dollars (\$100);~~

12 ~~F. private patrol operator employee, initial~~
13 ~~registration or renewal, twenty-five dollars (\$25.00);~~

14 ~~G. branch office, initial license or renewal fee,~~
15 ~~seventy-five dollars (\$75.00);~~

16 ~~H. change in license status, one hundred dollars~~
17 ~~(\$100);~~

18 ~~I. polygraph examiner, initial license or renewal,~~
19 ~~three hundred dollars (\$300);~~

20 ~~J. polygraph applicant examination, fifty dollars~~
21 ~~(\$50.00); and~~

22 ~~K. late fee for failure to renew a license within~~
23 ~~the allotted time period, fifty dollars (\$50.00)] The board~~

24 shall establish a schedule of reasonable fees not to exceed the

25 following:

.154016.2

underscored material = new
[bracketed material] = delete

- 1 A. application fee, not to exceed one hundred
2 dollars (\$100);
3 B. license fee, not to exceed five hundred dollars
4 (\$500);
5 C. registration fee, not to exceed two hundred
6 fifty dollars (\$250);
7 D. renewal or reinstatement fee, not to exceed five
8 hundred dollars (\$500);
9 E. late fee, not to exceed one hundred dollars
10 (\$100); and
11 F. administrative fee, not to exceed two hundred
12 dollars (\$200)."

13 Section 18. Section 61-27A-8 NMSA 1978 (being Laws 1993,
14 Chapter 212, Section 8) is amended to read:

15 "61-27A-8. LICENSE AND REGISTRATION RENEWAL.--~~[On or~~
16 ~~before June 30 of each odd-numbered year, every person licensed~~
17 ~~or registered under the Private Investigators and Polygraphers~~
18 ~~Act shall remit to the department, together with the prescribed~~
19 ~~fee for the class of license desired, an application for~~
20 ~~license or registration renewal on a form that is prescribed~~
21 ~~and furnished by the department. Information required on the~~
22 ~~renewal form shall include the licensee's current address,~~
23 ~~state tax identification number and proof of compliance with~~
24 ~~continuing education requirements promulgated by the~~
25 ~~department. Failure to renew a license by June 30 of each~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~renewal year shall cause the license to be suspended until a~~
2 ~~late fee, together with the unpaid renewal fee, is received by~~
3 ~~the department. Any license that is not renewed within one~~
4 ~~year from the date the license expired shall be automatically~~
5 ~~revoked.]~~

6 A. A license or registration granted pursuant to
7 the provisions of the Private Investigators and Polygraphers
8 Act shall be renewed by the board annually unless the term of
9 the license is set by the board by rule to be for a longer
10 period. The term of a license or registration shall not exceed
11 two years.

12 B. A licensee or registrant with an expired license
13 or registration shall not perform an activity regulated by the
14 Private Investigators and Polygraphers Act until the license or
15 registration has been renewed or reinstated.

16 C. The board may require proof of continuing
17 education credits or other proof of competency as a requirement
18 of renewal or reinstatement of a license or registration."

19 Section 19. Section 61-27A-9 NMSA 1978 (being Laws 1993,
20 Chapter 212, Section 9) is amended to read:

21 "61-27A-9. DISPLAY OF LICENSE AND REGISTRATION--
22 NOTIFICATION OF CHANGES.--

23 A. A license shall at all times be posted in a
24 conspicuous place in the principal place of business in New
25 Mexico of the licensee.

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~[B. A licensee shall notify the department within~~
2 ~~thirty days after any change in his address, in the name under~~
3 ~~which he does business or in the officers or partners of the~~
4 ~~business.]~~

5 B. A registration card shall at all times be in the
6 possession of and located on the person of a registrant.

7 C. Registered security guards shall wear their
8 registration card on the outside of their uniform so that the
9 card is visible to others.

10 D. A licensee, including owners, officers or
11 directors of a private investigation company or a private
12 patrol operator company, or a registrant shall notify the board
13 immediately in writing of a change in the address of the
14 licensee or registrant. Failure to notify the board of changes
15 required to be reported to the board pursuant to this section
16 within thirty days is grounds for suspension of a license or
17 registration."

18 Section 20. Section 61-27A-10 NMSA 1978 (being Laws 1993,
19 Chapter 212, Section 10, as amended) is amended to read:

20 "61-27A-10. OPERATION OF [BUSINESS] COMPANY--MANAGER
21 REQUIRED--EMPLOYEES--UNLICENSED EMPLOYEES--TERMINATION.--

22 ~~[A. Each business providing private investigator or~~
23 ~~private patrol operator services in New Mexico shall be~~
24 ~~operated under the direction, control, charge or management of~~
25 ~~a licensee; provided that the business shall be under the~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~direction, control, charge or management of a manager if the~~
2 ~~owner of the business does not qualify for a license under the~~
3 ~~Private Investigators and Polygraphers Act.~~

4 ~~B. A licensee shall not conduct a business under a~~
5 ~~fictitious name until he has obtained the written authorization~~
6 ~~of the department. The department shall not authorize the use~~
7 ~~of a fictitious name that is so similar to the name of a public~~
8 ~~officer or agency or to the name used by another licensee that~~
9 ~~the public may be confused or misled by it.~~

10 ~~C. A licensee shall at all times be legally~~
11 ~~responsible for the good business conduct of each of his~~
12 ~~employees, including his manager.~~

13 ~~D. Each licensee shall maintain a record containing~~
14 ~~information relative to his employees as may be prescribed by~~
15 ~~the department, and the records may be subject to inspection.~~

16 ~~E. Except as otherwise provided by the Private~~
17 ~~Investigators and Polygraphers Act, every employee of a~~
18 ~~licensee shall be registered by the licensee with the~~
19 ~~department within seven days of employment; provided, however,~~
20 ~~a licensee may hire temporary employees for periods of time not~~
21 ~~to exceed five days for special celebrations, parades or~~
22 ~~similar events without those employees being registered. The~~
23 ~~provisions of this subsection shall not be used to circumvent~~
24 ~~the registration of long-term employees.~~

25 ~~F. A person registered under the Private~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~Investigators and Polygraphers Act shall notify the department~~
2 ~~in writing within thirty days of each change in his employment.~~
3 ~~If a person ceases to be employed by a licensee, the person~~
4 ~~shall notify the department in writing within thirty days and~~
5 ~~shall surrender his registration card to the department.~~

6 G. ~~A manager duly licensed under the Private~~
7 ~~Investigators and Polygraphers Act need not register as an~~
8 ~~employee.~~

9 H. ~~Employees of a licensee who are engaged~~
10 ~~exclusively in stenographic, typing, filing, clerical or other~~
11 ~~activities that do not constitute the work of a private~~
12 ~~investigator or private patrol officer are not required to~~
13 ~~register.~~

14 I. ~~A person shall not act as a manager until he is~~
15 ~~licensed under the Private Investigators and Polygraphers Act.~~
16 ~~If a manager ceases to be connected with a licensee, the~~
17 ~~licensee shall notify the department in writing within thirty~~
18 ~~days from the cessation. If the licensee fails to notify the~~
19 ~~department within the thirty-day period, his license shall be~~
20 ~~subject to suspension or revocation and may be reinstated only~~
21 ~~upon the filing of an application for reinstatement and payment~~
22 ~~of the reinstatement fee.]~~

23 A. A private investigation company providing
24 services in New Mexico shall be operated under the direction,
25 control, charge or management of the owner of the private

.154016.2

underscored material = new
[bracketed material] = delete

1 investigation company if the owner is licensed as a private
2 investigator or of a private investigator manager.

3 B. A private patrol operator company providing
4 services in New Mexico shall be operated under the direction,
5 control, charge or management of the owner of the private
6 patrol operator company if the owner is licensed or registered
7 as a private patrol operator or a level three security guard or
8 of a private patrol operator manager.

9 C. A private investigation company or a private
10 patrol operator company shall not conduct business under a
11 fictitious name until the company has obtained the
12 authorization for use of the name from the board. The board
13 shall not authorize the use of a fictitious name that may
14 generate public confusion with the name of a public officer or
15 agency or the name used by another private investigation
16 company or private patrol operator company.

17 D. A private investigation company is liable for
18 the conduct of the company's employees, including the conduct
19 of a private investigator manager. A private patrol operator
20 company is liable for the conduct of the company's employees,
21 including the conduct of a private patrol operator manager.

22 E. A private investigation company or a private
23 patrol operator company shall maintain records of the
24 qualifications, performance and training of all of its current
25 and former employees as required by the board. The records are

.154016.2

underscoring material = new
[bracketed material] = delete

1 subject to inspection by the board upon reasonable notice to
2 the owner or private investigator manager or private patrol
3 operator manager.

4 F. Except as otherwise provided in the Private
5 Investigators and Polygraphers Act, every employee of a
6 licensed private investigation company or private patrol
7 operator company shall be licensed or registered by the board
8 as employees of the company with which they are employed;
9 provided, however, that a licensee or registrant may work for
10 more than one company.

11 G. Each temporary security guard employed by a
12 private patrol operator company for a special event shall be
13 issued a special event permit for each special event. The
14 private patrol operator company employing the temporary
15 security guard for a special event shall obtain the special
16 event permits necessary for the temporary employees that are
17 employed. The provisions of this subsection shall not be used
18 to circumvent the registration process for permanent or part-
19 time, long-term employees.

20 H. A person licensed or registered by the board
21 shall notify the board in writing within thirty days of each
22 change in his employment by filing an application as required
23 by the board. If a person ceases to be employed by a private
24 investigation company or a private patrol operator company, the
25 person shall notify the board in writing within thirty days.

.154016.2

underscored material = new
[bracketed material] = delete

1 I. Employees of a private investigation company or
2 private patrol operator company who are engaged exclusively to
3 perform stenographic, typing, filing, clerical, secretarial,
4 receptionist, accounting, bookkeeping, information technology
5 or other business or support functions that do not perform the
6 work of a private investigator, a private patrol operator or a
7 security guard, are not required to be licensed or registered
8 by the board.

9 J. An individual who is not licensed or qualified
10 to be employed as a private investigator manager or a private
11 patrol operator manager shall not be employed to perform the
12 duties required of those managers."

13 Section 21. Section 61-27A-11 NMSA 1978 (being Laws 1993,
14 Chapter 212, Section 11) is amended to read:

15 "61-27A-11. ~~[BOND]~~ GENERAL LIABILITY INSURANCE
16 REQUIRED.--

17 A. A private investigation company or a private
18 patrol operator company license ~~[except a manager's license and~~
19 ~~polygraph examiner's license]~~ shall not be issued under the
20 Private Investigators and Polygraphers Act unless the applicant
21 files ~~[with the department:~~

22 ~~(1) a surety bond executed by a surety company~~
23 ~~authorized to do business in this state; or~~

24 ~~(2) a certificate of deposit in the sum of two~~
25 ~~thousand dollars (\$2,000), conditioned for the faithful and~~

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~lawful conduct of business by the applicant.~~

2 ~~The form of bond, its execution and the sufficiency of the~~
3 ~~surety shall be verified by the department.~~

4 ~~B. A licensee shall maintain the surety bond, and,~~
5 ~~upon failure to do so, the license of the licensee shall be~~
6 ~~suspended and shall not be reinstated until an application in~~
7 ~~the form prescribed by the department is filed, together with a~~
8 ~~proper surety bond. The department] a general liability~~
9 ~~certificate of insurance with the board in the amount of one~~
10 ~~million dollars (\$1,000,000).~~

11 ~~B. The owner or chief executive officer of a~~
12 ~~licensed private investigation company or a private patrol~~
13 ~~operator company shall maintain the general liability~~
14 ~~certificate of insurance, and, upon failure to do so, the~~
15 ~~license of the private investigation company or the private~~
16 ~~patrol operator company shall be suspended and shall not be~~
17 ~~reinstated until an application in the form prescribed by the~~
18 ~~board is filed together with an acceptable general liability~~
19 ~~certificate of insurance. The board may deny the application,~~
20 notwithstanding the applicant's compliance with this section:

21 (1) for any reason that would justify a
22 refusal to issue or a suspension or a revocation of a license;
23 or

24 (2) for the performance by the applicant of
25 any practice while under suspension for failure to keep [his

.154016.2

underscored material = new
[bracketed material] = delete

1 ~~bond~~] the general liability certificate of insurance in force
2 for which a license under the Private Investigators and
3 Polygraphers Act is required.

4 C. [~~Bonds~~] A general liability certificate of
5 insurance executed and filed with the [~~department~~] board
6 pursuant to the Private Investigators and Polygraphers Act
7 shall remain in force until the [~~surety~~] company issuing the
8 general liability certificate of insurance has terminated
9 future [~~liability~~] indemnity by [~~thirty-day~~] notice to the
10 [~~department~~] board."

11 Section 22. Section 61-27A-12 NMSA 1978 (being Laws 1993,
12 Chapter 212, Section 12) is amended to read:

13 "61-27A-12. PROHIBITED ACTS.--

14 A. [~~Any~~] A licensee or [~~manager for the licensee~~]
15 registrant may divulge to any law enforcement officer or
16 district attorney, the attorney general or his representatives
17 [~~any~~] information [~~he acquires~~] acquired concerning [~~any~~] a
18 criminal offense, but [~~he~~] the licensee or registrant shall not
19 divulge to any other person, except as [~~he is~~] required by law,
20 [~~any~~] information acquired by [~~him~~] the licensee or registrant
21 except at the direction of [~~his~~] the employer or the client for
22 whom the information was obtained.

23 B. No licensee [~~manager or employee of a licensee~~]
24 or registrant shall knowingly make [~~any~~] a false report to his
25 employer or the client for whom the information was being

.154016.2

underscored material = new
[bracketed material] = delete

1 obtained.

2 C. No written report shall be submitted to a client
3 except by the licensee, the manager or a person authorized by
4 either of them, and the person submitting the report shall
5 exercise diligence in ascertaining whether the facts and
6 information of the report are true and correct.

7 D. No [~~licensee, manager or employee of a~~] private
8 investigator, private investigator manager or registered
9 private investigator employee shall use a badge in connection
10 with the official activities of the licensee's [~~business~~] or
11 registrant's employment for a private investigation company.

12 E. No licensee [~~manager or employee of a licensee~~]
13 or registrant shall use a title or wear a uniform, use an
14 insignia, use an identification card or make any statement with
15 the intent to give an impression that he is connected in any
16 way with the federal or state government or any political
17 subdivision of either.

18 F. No private patrol operator, [~~licensee, manager~~
19 ~~or employee of a private patrol operator licensee~~] private
20 patrol operator manager or level three security guard shall use
21 a badge except when engaged in guard or patrol work and while
22 wearing a uniform.

23 G. No licensee or registrant shall appear as an
24 assignee party in any proceeding involving a claim [~~and~~] or
25 delivery [~~replevin or other possessory~~] action to recover or

.154016.2

underscored material = new
[bracketed material] = delete

1 possess property or action for foreclosing a chattel mortgage,
2 mechanic's lien, materialman's lien or any other lien.

3 H. A polygraph examiner shall not ask questions
4 during the course of a polygraph examination relative to sexual
5 affairs of an examinee, the examinee's race, creed, religion or
6 union affiliation or any activity not previously and
7 specifically agreed to by written consent."

8 Section 23. Section 61-27A-13 NMSA 1978 (being Laws 1993,
9 Chapter 212, Section 13) is amended to read:

10 "61-27A-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE
11 OR REGISTRATION.--In accordance with procedures contained in
12 the Uniform Licensing Act, the [~~department~~] board may deny,
13 suspend or revoke [~~any~~] a license or registration held or
14 applied for under the Private Investigators and Polygraphers
15 Act or reprimand or place on probation a licensee or registrant
16 upon grounds that the licensee, registrant or applicant:

17 A. made a false statement or gave false information
18 in connection with an application for a license or registration
19 or renewal or reinstatement of a license or registration;

20 B. violated any provision of the Private
21 Investigators and Polygraphers Act;

22 C. violated [~~any~~] a rule of the [~~department~~] board
23 adopted pursuant to [~~that~~] the Private Investigators and
24 Polygraphers Act;

25 D. has been convicted of a felony or [~~any~~] a crime

.154016.2

underscored material = new
[bracketed material] = delete

1 involving moral turpitude or illegally using, carrying or
2 possessing a deadly weapon;

3 E. impersonated or permitted or aided and abetted
4 an employee to impersonate a law enforcement officer or
5 employee of the United States or of [~~any~~] a state or political
6 subdivision of either;

7 F. committed or permitted [~~any~~] an employee to
8 commit [~~any~~] an act while the license or registration was
9 expired that would be cause for the suspension or revocation of
10 a license or registration or grounds for the denial of an
11 application for a license or registration;

12 G. willfully failed or refused to render to a
13 client services or a report as agreed between the parties, for
14 which compensation has been paid or tendered in accordance with
15 the agreement of the parties;

16 H. committed assault, battery or kidnapping or used
17 force or violence on [~~any~~] a person without [~~proper~~]
18 justification;

19 I. knowingly violated or advised, encouraged or
20 assisted the violation of [~~any~~] a court order or injunction in
21 the course of business of the licensee;

22 J. knowingly issued a worthless or otherwise
23 fraudulent payroll check that is not redeemed within two days
24 of denial of payment of [~~any~~] a bank;

25 K. has been chronically or persistently inebriated

.154016.2

underscored material = new
[bracketed material] = delete

1 or addicted to the illegal use of dangerous or narcotic drugs;

2 L. has been adjudged mentally incompetent or insane
3 by regularly constituted authorities; ~~[or]~~

4 M. while unlicensed, committed or aided and abetted
5 the commission of ~~[any]~~ an act for which a license is required
6 under the Private Investigators and Polygraphers Act; or

7 N. has been found to have violated the requirements
8 of a state or federal labor, tax or employee benefit law or
9 rule."

10 Section 24. Section 61-27A-14 NMSA 1978 (being Laws 1993,
11 Chapter 212, Section 14) is amended to read:

12 "61-27A-14. HEARING--PENALTIES.--

13 A. Every person who is denied a license or
14 ~~[employee]~~ registration or who has ~~[his]~~ a license or
15 ~~[employee]~~ registration suspended or revoked shall be entitled
16 to a hearing before the ~~[department]~~ board if within twenty
17 days after the denial, suspension or revocation a request for a
18 hearing is ~~[served on]~~ received by the ~~[department]~~ board. The
19 procedures ~~[outlined in]~~ of the Uniform Licensing Act shall be
20 followed pertaining to the hearing ~~[insofar as]~~ to the extent
21 that they do not conflict with the provisions of the Private
22 Investigators and Polygraphers Act.

23 B. In accordance with the provisions of the Uniform
24 Licensing Act, and in addition to other penalties provided by
25 law, the board may impose the following:

.154016.2

underscored material = new
[bracketed material] = delete

1 (1) for a violation of the Private
2 Investigators and Polygraphers Act, a civil penalty not to
3 exceed one thousand dollars (\$1,000) for each violation; and

4 (2) against a person who is found by the board
5 to be engaging in practice regulated by the board without an
6 appropriate license or registration, civil penalties not to
7 exceed one thousand dollars (\$1,000)."

8 Section 25. Section 61-27A-16 NMSA 1978 (being Laws 1993,
9 Chapter 212, Section 16) is amended to read:

10 "61-27A-16. LICENSE OR REGISTRATION NOT TRANSFERABLE.--

11 A. A license or registration issued [~~under~~]
12 pursuant to the Private Investigators and Polygraphers Act [~~is~~]
13 shall not [~~transferable or reassignable~~] be transferred or
14 assigned.

15 B. The board shall adopt by rule procedures for
16 changes in company designation or management. A change in the
17 company designation of a private investigation company or a
18 private patrol operator company or a change in the manager of a
19 private investigation company or a private patrol operator
20 company shall proceed only pursuant to rules of the board, or
21 the private investigation company or private patrol operator
22 company shall be considered to be operating without a license."

23 Section 26. Section 61-27A-17 NMSA 1978 (being Laws 1993,
24 Chapter 212, Section 17) is amended to read:

25 "61-27A-17. LOCAL REGULATIONS.--The provisions of the

underscored material = new
[bracketed material] = delete

1 Private Investigators and Polygraphers Act shall not prevent
2 the local authorities of ~~[any city, county or]~~ a city ~~[and]~~ or
3 county by ordinance and within the exercise of the police power
4 of ~~[such]~~ the city or county ~~[or city and county]~~ from imposing
5 local ordinances ~~[upon any]~~ on a street patrol special officer
6 or ~~[upon any]~~ on a person licensed ~~[within the scope of]~~ or
7 registered pursuant to the Private Investigators and
8 Polygraphers Act if the ordinances are consistent with that
9 act."

10 Section 27. Section 61-27A-18 NMSA 1978 (being Laws 1993,
11 Chapter 212, Section 18) is amended to read:

12 "61-27A-18. FUND ESTABLISHED.--

13 A. There is created in the state treasury the
14 "private ~~[investigator and polygrapher]~~ investigators fund".

15 B. All license and registration fees and civil
16 penalties received by the ~~[department]~~ board pursuant to the
17 Private Investigators and Polygraphers Act shall be deposited
18 in the fund. ~~[and shall be used for the administration of that~~
19 ~~act.]~~

20 C. The state treasurer shall invest the fund as
21 other state funds are invested, and all income derived from the
22 investment of the fund shall be credited to the fund.

23 D. Money in the fund is appropriated to the board
24 to implement and administer the provisions of the Private
25 Investigators and Polygraphers Act.

.154016.2

underscored material = new
[bracketed material] = delete

1 E. Money in the fund shall be expended pursuant to
2 warrants issued by the secretary of finance and administration
3 upon vouchers signed by the chair of the board.

4 F. All balances in the fund shall remain in the
5 fund and shall not revert to the general fund."

6 Section 28. Section 61-27A-19 NMSA 1978 (being Laws 1993,
7 Chapter 212, Section 19) is amended to read:

8 "61-27A-19. DEADLY WEAPONS.--~~[Licensed private patrol~~
9 ~~operators and their registered employees, when in uniform and~~
10 ~~in the performance of their duties, may carry firearms and~~
11 ~~other deadly weapons; provided, however, nothing in the Private~~
12 ~~Investigators and Polygraphers Act shall be construed as~~
13 ~~granting to polygraph examiners, private investigators, private~~
14 ~~patrol operators or their employees the right to carry~~
15 ~~concealed weapons.] A private investigator, a private patrol~~
16 operator or a registrant employed by a private investigation
17 company or a private patrol operator company may carry a
18 firearm upon successful completion of the mandatory firearm
19 training as required by rules of the board."

20 Section 29. A new section of the Private Investigators
21 and Polygraphers Act is enacted to read:

22 "[NEW MATERIAL] RECIPROCITY.--

23 A. The board may enter into a reciprocity agreement
24 with another state for the purpose of licensing or registering
25 applicants to perform activities regulated by the Private

.154016.2

underscored material = new
[bracketed material] = delete

1 Investigators and Polygraphers Act; provided that the person
2 is, at the time of application for licensure or registration in
3 New Mexico, licensed or registered to perform the services in
4 the other state.

5 B. The board may develop rules that allow for
6 reciprocity on a temporary or limited basis without requiring
7 an applicant to be licensed or registered; provided that the
8 other state:

9 (1) has licensure or registration requirements
10 that meet or exceed those of New Mexico;

11 (2) has no record of disciplinary action taken
12 against the applicant in the last year; and

13 (3) can verify that the applicant has engaged
14 in activities that are licensed or registered pursuant to the
15 Private Investigators and Polygraphers Act for at least one
16 year in the other state."

17 Section 30. A new section of the Private Investigators
18 and Polygraphers Act is enacted to read:

19 "[NEW MATERIAL] CRIMINAL HISTORY BACKGROUND CHECKS.--

20 A. The board shall:

21 (1) develop, in conjunction with the
22 department of public safety, rules that require criminal
23 history background checks of all persons licensed or registered
24 pursuant to the Private Investigators and Polygraphers Act;

25 (2) require all applicants for licensure or

.154016.2

underscored material = new
[bracketed material] = delete

1 registration to be fingerprinted;

2 (3) provide for an applicant to inspect or
3 challenge the validity of the record developed by the
4 background check, if the applicant is denied a license or
5 registration;

6 (4) establish a fee for fingerprinting and
7 conducting a background check for an applicant; and

8 (5) provide fingerprints from an applicant on
9 two fingerprint cards for submitting to the federal bureau of
10 investigation for a national criminal history background check
11 and to the department of public safety for a state criminal
12 history check.

13 B. Arrest record information received from the
14 department of public safety and the federal bureau of
15 investigation shall be privileged and shall not be disclosed to
16 individuals not directly involved in the decision affecting the
17 specific applicant or employee.

18 C. The applicant shall pay the cost of obtaining
19 the criminal history background check from the department of
20 public safety and the federal bureau of investigation.

21 D. Electronic live scans may be used for conducting
22 criminal history background checks."

23 Section 31. Section 61-27A-20 NMSA 1978 (being Laws 1993,
24 Chapter 212, Section 20) is amended to read:

25 "61-27A-20. CRIMINAL OFFENSES--PENALTIES.--

.154016.2

underscored material = new
[bracketed material] = delete

1 A. A person who engages in a business regulated
2 ~~[under]~~ by the Private Investigators and Polygraphers Act who
3 fraudulently represents himself to be a licensee or ~~[registered~~
4 ~~employee]~~ registrant is guilty of a misdemeanor and if
5 convicted shall be ~~[punished by a term of imprisonment less~~
6 ~~than one year or a fine of not more than one thousand dollars~~
7 ~~(\$1,000) or both]~~ sentenced pursuant to Section 31-19-1 NMSA
8 1978.

9 B. A person who fraudulently represents that he is
10 employed by a licensee is guilty of a petty misdemeanor and if
11 convicted shall be ~~[punished by a term of imprisonment less~~
12 ~~than six months or a fine of not more than five hundred dollars~~
13 ~~(\$500) or both]~~ sentenced pursuant to Section 31-19-1 NMSA
14 1978.

15 ~~[B.]~~ C. A person who violates ~~[a provision]~~ a
16 mandatory requirement of the Private Investigators and
17 Polygraphers Act, ~~[except as provided for in Subsection A]~~
18 other than an offense in Subsection A or B of this section, is
19 guilty of a petty misdemeanor and if convicted shall be
20 ~~[punished by a fine of not more than five hundred dollars~~
21 ~~(\$500) or by imprisonment for not more than six months or both]~~
22 sentenced pursuant to Section 31-19-1 NMSA 1978."

23 Section 32. Section 61-27A-21 NMSA 1978 (being Laws 2000,
24 Chapter 4, Section 16) is amended to read:

25 "61-27A-21. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--
.154016.2

underscoring material = new
[bracketed material] = delete

1 The private investigators, private patrol operators and
2 [~~polygraphers advisory~~] polygraph examiners board is terminated
3 on July 1, [~~2005~~] 2011 pursuant to the Sunset Act. The board
4 shall continue to operate according to the provisions of the
5 Private Investigators and Polygraphers Act until July 1, [~~2006~~]
6 2012. Chapter 61, Article 27A NMSA 1978 is repealed effective
7 July 1, [~~2006~~] 2012."

8 Section 33. TEMPORARY PROVISION.--

9 A. A security guard, watchman, loss prevention
10 officer or patrolman licensed pursuant to the Private
11 Investigators and Polygraphers Act prior to July 1, 2005 shall
12 apply for a registration pursuant to the 2005 amended Private
13 Investigators and Polygraphers Act prior to August 31, 2005 to
14 receive a license without meeting the examination or
15 educational requirements of the 2005 amended act.

16 B. Between July 1, 2005 and August 31, 2005, an
17 individual shall be registered as a level three security guard
18 without examination or further qualification by the private
19 investigators, private patrol operators and polygraph examiners
20 board if the individual:

21 (1) worked as a security guard, watchman, loss
22 prevention officer or patrolman for the five years immediately
23 preceding July 1, 2005 and was licensed by the regulation and
24 licensing department to perform that work; and

25 (2) was authorized pursuant to the Private

.154016.2

underscoring material = new
~~[bracketed material] = delete~~

1 Investigators and Polygraphers Act prior to July 1, 2005, to
2 carry a firearm in the course of his employment.

3 C. A security guard, watchman, loss prevention
4 officer or patrolman who is not qualified pursuant to
5 Subsection B of this section to be registered as a level three
6 security guard shall be registered as level one security guard
7 if he applies for registration pursuant to the Private
8 Investigators and Polygraphers Act between July 1, 2005 and
9 August 31, 2005, except as provided in Subsection D of this
10 section.

11 D. If the board finds, upon application by a
12 security guard, watchman, loss prevention officer or patrolman
13 employed pursuant to the Private Investigators and Polygraphers
14 Act prior to July 1, 2005 that the applicant has applied in a
15 timely manner and presents exceptional circumstances, as
16 determined by the board, in which the security guard, watchman,
17 loss prevention officer or patrolman demonstrates that he
18 should be registered as a level two security guard, the board
19 in its discretion may register the security guard applicant as
20 a level two security guard without examination or further
21 qualification.

22 Section 34. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2005.